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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Ninety-fifth session

Summary record (partial)* of the 2618th meeting**
Held at the Palais Wilson, Geneva, on Tuesday, 24 April 2018, at 3 p.m.

Chair: Mr. Amir

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Combined eighth to tenth periodic reports of Kyrgyzstan

* No summary record was prepared for the rest of the meeting.
** No summary records were issued for the 2616th and 2617th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Combined eighth to tenth periodic reports of Kyrgyzstan (CERD/C/KGZ/8-10 and CERD/C/KGZ/Q/8-10)

1. *At the invitation of the Chair, the delegation of Kyrgyzstan took places at the Committee table.*

2. **Mr. Saliev** (Kyrgyzstan), introducing his country's combined eighth to tenth periodic reports (CERD/C/KGZ/8-10), said that the status of the Convention in the legal order of Kyrgyzstan had not been altered by the 2016 referendum. That notwithstanding, specific reference had yet to be made to the Convention in any court cases. The legislative framework in place to combat discrimination was based on article 16 of the Constitution, which established that no one should be subjected to discrimination on grounds of, inter alia, race, language or ethnicity. That definition of discrimination had informed articles 134 and 299 of the Criminal Code. Article 4 of the Code stipulated that one of its basic principles was the equality of citizens before the law.

3. Discrimination on grounds of race, ethnicity or religion was considered an aggravating circumstance and could result in the perpetrator of a criminal offence being prosecuted under multiple articles of the Criminal Code. Ethnicity was not indicated in national passports; and, as data were not collected on the ethnicity of defendants and victims, it was not possible to provide data on discrimination disaggregated by ethnicity. Under the State Legal Aid Act, all persons, including foreign nationals, stateless persons and refugees, were entitled to receive legal aid.

4. In 2016, a five-year programme for improving legal literacy among the population had been launched. All State agencies and local government bodies had set up helplines and the Office of the Procurator General operated an Internet portal that was accessible to the general public. Although discrimination on grounds of race or ethnicity was a criminal offence, victims could also bring civil action for compensation or the restoration of violated rights. In such cases, the burden of proof lay with the person who brought the claim.

5. In accordance with article 108 of the Constitution, the Ombudsman was entrusted with monitoring the respect of citizens' human rights and freedoms. A bill aimed at strengthening the independence of the Office of the Ombudsman had been introduced to the Zhogorku Kenesh, the parliament of Kyrgyzstan, in 2017 and was currently under review. In 2017, the Ombudsman had been contacted by nearly 13,000 people seeking assistance and had received over 7,000 communications via a dedicated helpline.

6. All ministries had oversight bodies whose membership included human rights defenders. In 2016, an expert council had been set up under the Office of the President to strengthen the involvement of civil society in the formulation and implementation of State policy. The periodic report had been discussed with civil society representatives at two consultations.

7. With regard to the case of Mr. Askarov, the Chüy provincial court had upheld, in its judgment of 24 January 2017, the Bazar-Korgon district court's finding of guilty and the sentence of life imprisonment. The judgment of the Chüy provincial court had not been appealed under the supervisory procedure; due process had been observed throughout the proceedings; and the case file had received a proper legal review.

8. As part of the judicial reform currently under way, the National Sustainable Development Strategy 2013–2017 had provided the backdrop for the introduction of seven new legal codes; those codes had been drafted with input from various United Nations bodies and civil society. In particular, the new Criminal Code contained a specific article on racial discrimination, and more severe penalties had been established for other offences if they were motivated by racial or ethnic hatred.

9. The process of training and selecting judges had undergone a thorough review and many new judges had been appointed. Audiovisual equipment was being installed in

courtrooms, and the legislation governing the activities of law enforcement officials was being updated. In order to prevent conflicts of interest, the various criminal investigation services had been placed under the centralized authority of the Government. Other steps taken to increase transparency included the creation of a cybercrime database.

10. The Government was working to combat hate speech and incitement to ethnic hatred. Between 2014 and 2017, nearly 100 television programmes aimed at bringing ethnic groups together and forging a civic identity had been broadcast. The law enforcement bodies monitored the media and the Internet, including social networks, as part of their efforts to counter ethnic, racial, religious and interregional hatred. As a result, the number of incidents of hate speech against Uzbeks in the media had halved between 2011 and 2017. Over the previous five years, training programmes had been introduced to promote tolerance and media ethics among journalists and others working in the media. In general, hate speech was addressed through a focus on self-regulation and ethical principles rather than through strict regulation.

11. The various measures taken to foster peace and harmony in Kyrgyz society had resulted in a fourfold reduction in the number of inter-ethnic incidents. In 2017, an independent monitoring exercise had assessed the implementation of the Policy Framework on Strengthening National Unity and Inter-Ethnic Relations in positive terms. A new civic integration initiative entitled "I am a Kyrgyz" was being developed with a view to instilling respect for the cultures and traditions of ethnic groups and loyalty to the State. Since 2014, the Government had funded grants for 47 projects aimed at bringing together ethnic groups and strengthening national unity.

12. The Government was continuing its efforts to investigate incidents related to the events of June 2010. Under the country's supervisory procedure, the procuratorial authorities had reviewed all the criminal cases being prosecuted by the law enforcement agencies. The low number of crimes reported in connection with the events of 2010 was due in part to the fact that witnesses had not come forward. Criminal proceedings had been initiated for all cases involving disappearances and the corresponding investigations were under way. International search warrants had been issued through the International Criminal Police Organization (INTERPOL) for various individuals. Under national legislation, victims of miscarriages of justice related to the events of June 2010 could file a civil claim against the investigative authorities or courts. Data on the payment of compensation to victims were not available.

13. Citizens' access to information had improved in recent years as a result of efforts to harness the potential of the country's regions. Kyrgyzstan had recently taken the first steps towards making local government services available online, and an initiative had been launched to strengthen inter-ethnic harmony. Under the State Programme for the Security and Socioeconomic Development of Certain Border Areas of Kyrgyzstan with Special Status, numerous measures aimed at enhancing socioeconomic infrastructure in border villages had been put in place over the period 2013–2017 and, in January 2018, implementation of the second phase of the Programme had been approved.

14. According to figures for 2018, there were over 900,000 persons of Uzbek ethnicity living in Kyrgyzstan. The Government had earmarked significant financial resources to promote Uzbek culture and language. The Uzbek Ethnic Cultural Centre, which operated under the aegis of the Assembly of the Peoples of Kyrgyzstan, supported Uzbek culture and traditions.

15. There were currently over 4,000 persons of Lyuli ethnicity living in Kyrgyzstan. Local governing bodies set aside plots of land on which members of the Lyuli community could build houses. Four individuals of Lyuli ethnicity held positions in the country's internal affairs agencies. The Government conducted ongoing outreach activities to address issues such as early marriage and polygamy in the Lyuli community.

16. More than 20 ethnic minorities were represented among the country's civil servants at the State and municipal levels and they made up 12 per cent of the workforce. The internal affairs agencies counted staff representing 26 ethnic minorities, with Russians, Uzbeks and Kazakhs being the most strongly represented. The presence of ethnic minorities was weakest among administrative civil servants. Kyrgyzstan was the only country in the

region to have passed legislation establishing a quota for the representation of ethnic groups in the parliament and local councils; that quota currently stood at 15 per cent. Of the 120 deputies at the 2018 session of the parliament, 103 were of Kyrgyz ethnicity, 4 Russian, 4 Uzbek, 3 Kazakh, 2 Dungan, 2 Uighur, 1 Tajik and 1 Tatar. Ethnic minorities were slightly less well represented in local councils.

17. Efforts were being made to promote bilingualism and linguistic diversity. In 2016, a multilingual education programme for 2017–2030 had been launched in line with the Government's objective of ensuring that the new generation of Kyrgyz citizens was trilingual. For the 2016/17 academic year, 52 schools had Uzbek as their language of instruction, 52 Uzbek and Russian, 54 Uzbek and Kyrgyz and 1 Uzbek and Tajik. As some Uzbek-language schools had recently become bilingual, adding either Kyrgyz or Russian as languages of instruction, that could explain why it might appear that Uzbek-language schools were closing. In 2014, over 34,500 school-leavers seeking entry to higher education institutions in Kyrgyzstan had sat the national examination in Kyrgyz, over 18,500 in Russian and 49 in Uzbek. The low number of candidates sitting the examination in Uzbek was attributable in part to the fact that Uzbek was not a language of instruction in any of the country's higher education institutions. Uzbek had since been dropped as one of the languages of the national examination on grounds of economic unviability.

18. The Media Act in no way restricted media production in the languages of the ethnic minorities of Kyrgyzstan. In 2014, the television station Yntymak, which broadcast in Uzbek and Kyrgyz, had been included among the stations that broadcast free of charge in digital format. The Government also supported newspapers produced in minority languages. The radio station Friendship worked closely with the various ethnic groups represented in the Assembly of the Peoples of Kyrgyzstan. The weekly radio programme *Bridge of Friendship* was produced in eight different languages.

19. Kyrgyzstan had acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in 1996. Refugees in Kyrgyzstan enjoyed the exercise of their inalienable rights and could not be returned against their will to the country from which they had fled. Any decisions by the State authorities that restricted the rights of refugees could be appealed in court. The Government had taken steps to grant Kyrgyz citizenship to refugees and to facilitate the voluntary repatriation of refugees and unsuccessful asylum seekers.

20. The large flows of asylum seekers from neighbouring States was a matter of public concern, and training was organized regularly on assisting refugees in emergency situations. A national action plan had been launched to prevent refugees from becoming stateless. National legislation permitted refugees to move freely throughout the country, with the exception of a few regions that were closed off to foreign nationals. They also had the right to live in temporary residences, purchase property and receive medical assistance, education and legal protection. Migrant children were entitled to receive free secondary education.

21. The Ministry of Internal Affairs was intensifying its efforts to provide training in human rights, international law, conflictology and inter-ethnic relations to all its employees.

22. **Ms. McDougall** (Country Rapporteur), noting that the Committee had recommended, in its concluding observations on the State party's previous periodic report (CERD/C/KGZ/CO/5-7), that certain steps should be taken to address the root causes of the ethnic conflicts that had been occurring in the State party since 2007, said that the measures adopted by the State party in response to that recommendation appeared to have been mostly ineffective. According to the information available to the Committee, the local government bodies responsible for implementing the measures were overwhelmingly controlled by members of the Kyrgyz ethnic group, had insufficient resources and suffered from a lack of public trust.

23. She wished to know whether the State party had set up a mechanism to review the cases of the persons convicted in connection with the June 2010 ethnic conflict in Osh and Jalal-Abad provinces and what efforts, if any, had been made to investigate the human rights violations committed during that conflict and to prosecute and punish the individuals responsible, regardless of their ethnicity. In 2014, the Human Rights Committee had

expressed concern that the State party had failed to carry out effective investigations into the violations in question and had not addressed the root causes of the conflict. The investigations that had been conducted had reportedly been biased, inconsistent with the principle of due process and inadequate for the purpose of combating impunity. She would appreciate a detailed response from the delegation in that regard.

24. There were credible reports that the State party had not taken any steps to review torture-tainted convictions handed down in the aftermath of the June 2010 conflict. In paragraph 28 of its periodic report, the State party asserted that there had been no claims for compensation for miscarriages of justice that had occurred in relation to the conflict. However, the fact that no one had come forward did not mean that there had not been any miscarriages of justice. Rather, it could point to a fear of the police, particularly among the Uzbek community. Her conclusion, from reading the statistics supplied by the State party and other reliable sources, was that it was the victims of the June 2010 conflict who had been jailed and the perpetrators who had been compensated.

25. In paragraph 34 of its periodic report, the State party noted that 15 complaints of torture had been made against law enforcement officials in connection with the June 2010 conflict and that criminal proceedings had been instituted in five cases. However, no information had been provided on the outcome of those proceedings.

26. The Committee had received reports that forced evictions continued to be a significant issue in Kyrgyzstan, especially in Osh, which had a large Uzbek population; that legislation and procedures concerning the demolition of houses and eviction were not transparent; that ethnic Uzbeks living in Osh had been disproportionately affected by the government expropriation of private property for urban development projects; and that the compensation offered for that property was as little as five times below the market value. The delegation should explain the formula used to determine compensation in such cases.

27. There was evidence to suggest that, years after the events of June 2010, ethnic Uzbeks continued to be dismissed from local and central government posts for being related to persons who had been convicted for their involvement in those events. It would be helpful to know how many ethnic Uzbeks had been removed from such positions since 2010 and on what grounds.

28. It was reported that members of the Lyuli ethnic group were often discriminated against, had an extremely low standard of living and school attendance rate and were unable to avail themselves of social services owing to a lack of documentation. She would be grateful to hear about the steps being taken to provide Lyuli children, in particular, with birth certificates and other identity documents.

29. Ethnic minorities, who accounted for around 30 per cent of the State party's population, continued to be underrepresented in the executive and legislative branches of government. She wished to know why that was the case, what was being done to implement the legal quotas for the representation of minorities in the parliament as mentioned in paragraph 17 of the periodic report and what measures were being adopted generally to boost minority representation in the civil service, the judiciary and the police force.

30. The delegation should describe the results achieved pursuant to the adoption of Decision No. 220 of 30 April 2013, on measures to reform the internal affairs agencies. It should also comment on the fact that, despite the introduction of legislation in 2011 establishing a 15 per cent quota for ethnic minority candidates on political party lists, ethnic minority representation had fallen between 2011 and 2015. According to reports, political parties had altered their lists of candidates after elections, excluding a number of minority representatives. She wished to know whether that was true and, if so, what was being done to prevent the practice. Statistics on the number of ethnic Uzbek judges in Osh would also be welcome.

31. Concerns remained about the State party's failure to bring its national legislation, including the Constitution and the Criminal Code, into line with international standards. Some experts argued that the amendments approved in the constitutional referendum of December 2016 had merely muddied the waters with regard to the status of international law in the domestic legal framework. The lack of legislative harmonization raised concerns

about fundamental principles of law, the separation of powers and, by extension, the independence of the judiciary. She wished to draw particular attention to the State party's failure to enact legislation on hate speech that incorporated the spirit and letter of article 4 of the Convention.

32. She urged the State party to ensure that the Office of the Ombudsman was fully compliant with the Paris Principles and recalled that the Committee had, in the past, requested comprehensive data on cases of racial discrimination handled by State agencies. The relevant information provided in paragraphs 131 to 136 of the periodic report was not sufficiently comprehensive. It should also be noted that an absence of complaints submitted to the Office of the Ombudsman and other State agencies might indicate problems with the accessibility of complaints mechanisms or a lack of public trust in the Government.

33. There had been disturbing reports of harassment and persecution of human rights defenders, especially journalists, individuals who championed the rights of ethnic minorities and anyone who expressed opinions on the events of June 2010 that ran counter to those of the Government. The Special Rapporteur on the situation of human rights defenders had expressed deep concern about the treatment of civil society groups and had called on the Government to provide a safe and enabling environment for them to carry out their work without fear of reprisal. She would be grateful for an update on the case of Mr. Askarov; the delegation should respond to reports that Mr. Askarov's wife had been harassed and his home seized. It should also comment on whether only members of ethnic minorities had their homes seized by the Government and explain whether steps would be taken to ensure the prompt release of Mr. Askarov.

34. The Committee had received multiple reports of racist hate speech that was reminiscent of the discourse prevalent in Rwanda in the 1990s. Specifically, it had been informed of verbal attacks against ethnic minorities during the reporting period and incendiary remarks in the media and by politicians that had not been denounced or effectively tackled by high-level officials. Indeed, the Government's response appeared to have been to harass journalists who reported on hate speech, forcing some of them to flee the country. The delegation's thoughts on the matter would be appreciated.

35. **Mr. Kut** said that the State party was to be commended on having submitted its follow-up report on the Committee's 2013 concluding observations on time.

36. **Mr. Avtonomov**, expressing concern at the many problems reportedly faced by members of the Lyuli ethnic community, said that he would welcome further information on their situation. He would also be grateful for details on other minorities, such as Koreans, Meskhetian Turks, Dungans and Dargins, and whether they had the possibility of studying in their own language. He would be interested to know more about the role of the State in supporting ethnic diversity. He recommended that the State party should update its 2008 common core document to reflect the changes that had occurred in the situation since then and it should ratify the amendments to article 8 of the Convention.

37. **Mr. Murillo Martínez**, referring to the case of Mr. Askarov, said that he would be interested to hear more about the State party's interpretation of the Human Rights Committee decision on the matter as well as any recent developments. He wished to know to what extent the State party's efforts to foster national unity and prevent inter-ethnic conflict following the events of 2010 had addressed the root causes of those events and what was being done to combat them. He would be grateful for further information on the role of the Assembly of the Peoples of Kyrgyzstan as a forum for inter-ethnic dialogue, how it operated in practice and the number of sessions that had been held. Details of the quota policy for the representation of the different ethnic groups in the parliament, and its impact, would be appreciated.

38. The delegation might also provide details on the number and kinds of cases in which civil servants or law enforcement personnel had been held personally liable for acts, omissions or delays in relation to policies on intercultural dialogue and support for different ethnic groups. He would be interested to know whether the 1,921 reports of rape that had been registered by the law enforcement agencies between 2010 and 2015 were linked to the events of 2010. With regard to the State party's efforts to improve human rights training, he would welcome specific data on the number of public servants trained and the impact of the

training. He would also like to know more about the participation of ethnic minorities in the public service, especially in senior posts. The delegation might also indicate the proportion of members of ethnic minorities in the overall prison population and the types of crimes they tended to be charged with. He would also be interested to know about the context leading to the inclusion of new provisions on racial discrimination in the Criminal Code and how the Internet was being used to combat hate speech.

39. **Ms. Shepherd** said that, while it was always a challenge to organize a multi-ethnic society and avoid the charge that integration as a strategy resulted in discrimination against one ethnic group or the other, conflict was not an unavoidable outcome and every effort must be made to ensure a rights-based approach in social organizational strategies. She was particularly concerned about minority language rights in the education system; that issue had been raised in the Committee's previous concluding observations and in the list of themes. The State party's assurances notwithstanding, the Committee continued to hear reports that the road map for strengthening national unity and ethnic relations had led to the suppression of minority languages and cultures and that, although the Constitution guaranteed a right for minorities to receive education in their own languages, there was a growing trend among schools that had traditionally taught in the Uzbek language to increase the proportion of the curriculum taught in Kyrgyz on the grounds of social integration. The Committee encouraged the State party to do all that it could to respect the minority language rights of the diverse ethnic groups in the country.

40. The Committee was also concerned by the increase in the school dropout rate. Although the official explanation given was that adolescents were obliged, for material reasons, to seek gainful employment at an early age, she wondered whether the lack of minority language education might be a contributing factor. Noting that poverty was reportedly increasing among poorly educated minorities and that children who dropped out of school were in fact begging in the streets, she wished to know what evidence there was that education and training translated into equal economic advancement for all ethnic groups and equal opportunities to hold political positions. She would welcome labour force statistics disaggregated by ethnic group. She would like to know how the impact of the human rights training described in the State party report was measured. Lastly, she wished to know how the Government planned to ensure that girls had greater access to secular education.

41. **Mr. Marugán** said that the State party's efforts to reduce the number of stateless persons in the country between 2014 and 2018 and the reduction of the residency requirement for naturalization from five years to three years for recognized refugees were to be commended. He wished to know whether the State party planned to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Noting that the 2016 amendments to the Constitution permitted the deprivation of nationality and that a new law on citizenship was being drafted setting out specific procedures for such deprivation, he wished to know whether there were plans to amend the Constitution to include safeguards against statelessness and ensure that implementing legislation would provide for due process and the right to a fair trial. He would welcome more information on the particularly vulnerable situation of lesbian, gay, bisexual and transgender persons who were members of ethnic minorities, as they were reportedly the victims of multiple discrimination and hate crimes, in some cases committed by police officers.

42. The State party's assertion that it had received no reports from victims concerning rape or the use of violence or torture against ethnic minorities contradicted other information received by the Committee. He asked whether victims were aware of their rights, whether they feared reprisals and whether the Government had conducted any investigations such as to encourage victims to report such violations.

43. The quotas and measures in place to ensure the representation of different ethnic groups in the parliament were welcome developments, but no statistics had been provided with regard to the police and other security forces. He wished to know whether such information would be made available and what steps the State party would take to improve the representation of ethnic groups.

44. He would be grateful for additional information on the specific measures taken under the national action plan against human trafficking launched by the Ministry of Foreign Affairs for the period 2012–2015.

45. **Mr. Yeung Sik Yuen** said that he would welcome an explanation of the procedure for surrendering arms referred to in the State party's report (para. 24). Noting that gunshot wounds had accounted for more than half of the deaths during the events of June 2010, he wondered whether those surrendering firearms would be subject to investigation or whether an amnesty was in place. It would be interesting to hear how successful the measures had been. He also wished to know whether the persons who had fled abroad following the events of 2010 and the 47 accused individuals who had not been located belonged to a specific ethnic group. He was concerned that so few of the perpetrators had been identified.

46. It would be useful to hear about the difficulties encountered in the efforts to reform the judicial system and law enforcement agencies. He wondered whether the body established for that purpose had finalized its work and what recommendations it had made. It would also be interesting to know who now appointed and dismissed judges.

47. The case against Mr. Askarov had allegedly been based on evidence obtained from torture, statements from Kyrgyz officers whom he had investigated and witness testimony obtained under duress. Nevertheless, three regional courts had dismissed all the appeals. He asked whether any further appeal procedures were available in view of calls from the International Commission of Jurists.

48. **Mr. Calí Tzay** said that he found the distinction made between ethnicity and nationality in the core document (HRI/CORE/KGZ/2008) confusing; a clear definition of nationality in that context would be helpful.

49. It would be useful to have figures on the composition of the prison population, especially since prisoners were often disregarded and justice could be administered in a discriminatory manner. With regard to health care, he would appreciate information on the access of ethnic minorities to health-care services and medicine, including the type of services available. Were they entitled to public or private health care?

50. He wished to know the reasons behind the high homicide and suicide rates, which the core document (para. 31) cited as a major cause of death. It would be interesting to know what segments of the population were involved, including a breakdown by sex.

51. **Mr. Bossuyt** said that he would appreciate an explanation of the distinction that the State party made between the State language, which was Kyrgyz, and the official language, which was Russian, and the implications of that distinction. He wished to know as well what status had been given to seven other languages spoken in the country. He invited the delegation to elaborate on the use of both Kyrgyz and Russian as a means of inter-ethnic communication. What was their status in public administration, education and the legal system?

52. Additional information would be welcome concerning the human rights violations that had occurred in conjunction with the ethnic conflicts of 2010, including torture, rape and expulsions. He wished to know how history modules presented events in Kyrgyzstan from ancient times to the present day.

53. It was understandable that the State party should withdraw citizenship from persons having more than one nationality where their behaviour so warranted; however, problems arose in the case of persons who became stateless when citizenship was withdrawn. Extremism and separatism, which had been among the reasons given, did not constitute sufficient grounds for depriving individuals of citizenship. Fair procedures should be in place to ensure that such decisions were not arbitrary.

54. **Ms. Li** said that she wished to hear about the Government's efforts to raise public awareness of the Convention and of national laws on the rights of ethnic groups, including access to legal remedies when they encountered discrimination.

The discussion covered in the summary record ended at 5.30 p.m.